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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,432	10/23/2003	Raymond W. McCollum	MSFTP522US	8399
27195 7590 10/10/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER CHOU, ANDREW Y	
			ART UNIT 2192	PAPER NUMBER
			NOTIFICATION DATE 10/10/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/692,432

Applicant(s)

MCCOLLUM ET AL.

Examiner

Andrew Y. Chou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/12/2007, 1/10/2006, 4/12/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-36 are pending. Claims 1, 22, 31, 33, and 34 are the independent claims.
2. The filing date for this application is 10/23/2003

Information Disclosure Statement

3. The Office acknowledges receipt of the Information Disclosure Statements filed on 02/12/2007, 01/10/2006, and 04/12/2004. They have been placed in the application file and the information referred to therein has been considered.

Oath/Declaration

4. The Office acknowledges receipt of properly signed oath/declaration filed on 02/02/2004.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claim 4, the limitation recites "...at least one of what subset of types within..." The term "of what subset of types" is unclear in the context of the claim. For the purpose of prosecution, the Examiner assumes the claim reads "indicates at least one subset of types within....".

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 1-19 are rejected under 35 U.S.C 101 because the claims invention is directed to non-statutory subject matter.

Claims 1-19 are non-statutory because the claimed invention is subject to 35 U.S.C 101 as being software per se. Software per se, i.e. the descriptions or expressions of the programs, are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permits the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. For further information, see Interim Guidelines for Examination of Patent Application for Patent Subject Matter Eligibility (signed 26Oct2005) – OG Cite: 1300 OG 142. Annex IV(a) <http://-www.spto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-36 are rejected under 35 U.S.C 102(b) as being anticipated by Ravindran, *Engineering Dynamic Real-Time Distributed Systems: Architecture, System Description Language, and Middleware*, January, 2002.

Claims 1

Ravindran discloses a system (see for example page 32, Fig. 1, "real-time C2 system", Fig. 3, "system description language runtime system", and related text) that facilitates management of an application or service, comprising:

an application or service for installation on the system (see at least Abstract); and
an attribution component that facilitates attributing code of the application or service with management information (see for example at least Abstract, Introduction, Section 7. System Description Language);

where the system uses the management information to manage the installed application or service (see at least Abstract, Introduction, Section 5. The Resource Management Architecture).

Claim 2:

Ravindran further discloses the system of claim 1, a software tool is applied to the attributed code of the application or service to expose the management information (see at least Introduction, p. 31, left column, second paragraph).

Claims 3:

Ravindran further discloses the system of claim 1, the management information is exposed and used to generate a manifest (see at least Introduction, p. 31, left column, second paragraph).

Claim 4:

Ravindran further discloses the system of claim 1, the attributed code of the application or service indicates at least one of what subset of types within one or more components of the application or service can be exposed and how the subset of types should be identified (see for example Introduction, p. 31, left column, 2nd, 4th paragraphs, Sections 6.2, 7).

Claim 5:

Ravindran further discloses the system of claim 1, the management information is exposed from at least one of an in-process provider and a decoupled provider (see for example Introduction, Sections, 5, 7).

Claim 6:

Ravindran further discloses the system of claim 1, the management information is exposed from a decoupled provider, which attributed code of the decoupled provider includes at least one of a register call at startup and an unregister call at shutdown (see at least Introduction, Sections 5, 7).

Claim 7:

Ravindran further discloses the system of claim 1, a catalog is created of all available instrumentation data of the system, wherein the catalog is browsed and used to

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discover a particular instrumentation point (see for example Introduction, Sections 5, 7).

Claim 8:

Ravindran further discloses the system of claim 1, at runtime, management information is retrieved by identifying the associated management information within a catalog of all management information of the system, and following the associated management information to the corresponding application or service (see at least Introduction, p. 31, left column, 2nd paragraph, Section 6.1).

Claim 9::

Ravindran further discloses the system of claim 8, for an in-process provider at runtime, the component associated with the management information, is loaded and invoked (see for example Section 5, p. 33, right column, 3rd paragraph).

Claim 10:

Ravindran further discloses the system of claim 8, for a decoupled provider at runtime, the management information is used with information provided by a register call to locate a corresponding running process, to connect to the running process, and to locate a subcomponent within the running process that is associated with the management information (see for example Section 5, p. 33, right column, 3rd paragraph).

Claim 11:

Ravindran further discloses the system of claim 1, the management information includes a probe attribute that is used to indicate that a member of a type is a probe (see for example Section 5).

Claim 12:

Ravindran further discloses the system of claim 11, the type is decorated with a folder attribute (see for example Section 5).

Claim 13:

Ravindran further discloses the system of claim 1, the management information includes health information that is exposed from an in-process provider (see for example Section 7).

Claim 14:

Ravindran further discloses the system of claim 1, the management information includes health information that indicates health of the application or service (see for example Section 7).

Claim 15:

The system of claim 1, the management information is identified within the attributed application or service using a uniform resource identifier (see for example Section 5).

Claim 16:

Ravindran further discloses the system of claim 1, the management information includes execution information that indicates when the management information should be executed (see for example Sections 5, 6.1).

Claim 17:

Ravindran further discloses the system of claim 1, the management information is exposed from a data source that includes at least one of hardware, software application, and an operating system (see for example Introduction).

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Claim 18:

Ravindran further discloses the system of claim 1, the management information includes class definitions that are exposed to a management component (see for example Introduction).

Claim 19:

Ravindran further discloses the system of claim 1, the class definitions are described in a managed object format (see for example Introduction, Sections 5, 6.2, 7).

Claim 20:

This is a computer system version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Ravindran.

Claim 21:

This is a computer-readable medium having computer-executable instructions version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Ravindran.

Claim 22:

Ravindran discloses a method of managing an application or service, comprising:
receiving the application or service for installation on a system (see for example Abstract);
attributing code of the application or service with management information (see for example Introduction);

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exposing the management information to a management system (see for example at least Abstract, Introduction, Section 7. System Description Language); and controlling the application or service based upon the management information that is exposed when the application or service is installed on the system (see at least Abstract, Introduction, Section 5. The Resource Management Architecture).

Claim 23:

Ravindran further discloses the method of claim 22, further comprising generating a manifest of the exposed management information (see at least Introduction, p. 31, left column, second paragraph).

Claim 24:

Ravindran further discloses the method of claim 22, the management information is exposed from one or more internal processes of a provider (see for example Introduction, Sections, 5, 7).

Claim 25:

Ravindran further discloses the method of claim 22, further comprising generating a catalog of all manifests of all available instrumentation data of the system, wherein the catalog is browsed and used to discover a particular instrumentation point (see for example Introduction, Sections 5, 7).

Claim 26:

Ravindran further discloses the method of claim 22, the service is a native service whose code is wrapped with a managed code to facilitate attribution thereof (see at least Introduction, p. 31, left column, 2nd paragraph, Section 6.1).

Claim 27:

Ravindran further discloses the method of claim 22, the attributed code includes at least one of folder and probe attributes (see for example Section 5).

Claim 28:

Ravindran further discloses the method of claim 22, further comprising authoring the application or service with management information in preparation for a runtime (see for example Section 5, p. 33, right column, 3rd paragraph).

Claim 29:

Ravindran further discloses the method of claim 22, further comprising generating an instrumentation manifest for the application or service based upon the management information (see at least Introduction, p. 31, left column, second paragraph).

Claim 30:

Ravindran further discloses the method of claim 29, the instrumentation manifest is stored with a collection of instrumentation manifests that are accessible to a consumer of the management information (see at least Introduction, p. 31, left column, second paragraph).

Claim 31:

Ravindran discloses a system for managing an application or service, comprising:
means for attributing the application or service with health information (see for example Section 7);
means for exposing the health information in the form of instrumentation definitions (see for example Section 7);

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means for cataloging the instrumentation definitions in a collection of instrumentation definitions (see at least Introduction, p. 31, left column, 2nd paragraph, Section 6.1); and means for controlling the application or service based upon the exposed instrumentation definitions when the application or service is installed on the system (see at least Introduction, p. 31, left column, 2nd paragraph, Section 6.1).

Claim 32:

Ravindran further discloses the system of claim 31, further comprising means for identifying the health information with a unique identifier (see for example Section 7).
service.

Claim 34:

This is a computer-readable medium having computer-executable instructions version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Ravindran.

Claim 35:

Ravindran further discloses the computer-readable medium of claim 34, the management information includes a probe attribute that is used to indicate that a member of a type is a probe, which type is decorated with a folder attribute (see for example Section 5).

Claim 36:

Ravindran further discloses the computer-readable medium of claim 34, at runtime, a component of an in-process provider associated with the management information is

loaded and invoked, and the management information for a decoupled provider is used with information provided by a register call to locate a corresponding running process, to connect to the running process, and to locate a subcomponent within the running process that is associated with the management information (see for example Section 7).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Chou whose telephone number is (571) 272-6829. The examiner can normally be reached on Monday-Friday, 8:00 am – 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.


Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

AYC



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